



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

DISMISSED FOR LACK OF JURISDICTION: September 4, 2008

CBCA 1302

OMEGAMAN FIREPROTECTION,

Appellant,

v.

DEPARTMENT OF HEALTH AND HUMAN SERVICES,

Respondent.

George U. Searles, Jr., Owner/Operator of Omegaman Fireprotection, Washington, DC, appearing for Appellant.

Krystal Jordan, Office of the General Counsel, Department of Health and Human Services, Washington, DC, counsel for Respondent.

Before Board Judges **VERGILIO**, **POLLACK**, and **KULLBERG**.

VERGILIO, Board Judge.

On August 1, 2008, the Board received from the Government Accountability Office Contract Appeals Board, a notice of appeal that had been submitted there by Omegaman Fireprotection. The notice identifies a solicitation (292-066-P(HG)-309), an agency (the National Institutes of Health), a contracting officer, and an estimate of the amount of the claim (\$98,000). Also, the notice specifies the failure of the contracting office to issue a decision.

On August 8, 2008, the Government filed a motion to dismiss for lack of jurisdiction. It states that the underlying solicitation resulted in an award to other than Omegaman Fireprotection, an unsuccessful offeror. The Government notified Omegaman of the award by early August 2006. Because there is no underlying contract with Omegaman in dispute, the Government seeks the dismissal. During a telephone conference, Omegaman confirmed

that it intends to pursue the appeal at this Board. In a written response to the Government motion, Omegaman recognizes that another company was awarded the contract. Omegaman contends that Omegaman was qualified and met the requirements of the solicitation, and was the only such company to make an offer.

Omegaman is not the contractor in the contract that arose from the solicitation referenced in its notice of appeal. There is no claim by a contractor relating to a contract underlying this action which could serve as a basis for this Board's jurisdiction. 41 U.S.C.A. §§ 601(4), 605(a), 606, 607(d) (Supp. 2007). This Board lacks jurisdiction over this matter.

Decision

The Board grants the Government motion. The appeal is **DISMISSED FOR LACK OF JURISDICTION**.

JOSEPH A. VERGILIO
Board Judge

We concur:

HOWARD A. POLLACK
Board Judge

H. CHUCK KULLBERG
Board Judge